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DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY

CARL E. RING,

Plaintiff Appellant,

vs.

LLOYD B. MARSH, SECRETARY OF STATE OF THE STATE OF NEW JERSEY,

Defendant Respondent

JURISDICTIONAL STATEMENT PURSUANT TO RULE 12 OF THE REVISED RULES OF THE SUPREME COURT OF THE UNITED STATES.

A. The statutory provision which it is believed sustains jurisdiction of the Supreme Court of the United States to hear the direct appeal in this case is Section 380 United States Code Annotated, Title 28.

B. The statute of the State of New Jersey, validity of which is involved is Section 19:13-9 of the Revised Statutes of New Jersey as amended February 18, 1948 which provides "all such petitions and acceptances thereof" (direct nominating petitions for member of Congress for the November election) "shall be filed with the officer or officers to whom they are addressed at least forty days previous to the day of the holding of the primary election for the general election." Section 19:2-1 as amended on February 18,

1948 provides "that primary elections shall be held on the third Tuesday in April of each year."

Prior to these February 18, 1948 amendments the last day to file would have been May 26, 1948 and this was advanced to March 11, 1948 by the said amendments.

The second statute involved is 19:13-4 of the Revised Statutes of New Jersey which provides "the petition shall also state in not more than three words the designation of the party or principles which the candidates therein named represent; but such designation shall not contain the designation, name, derivative, or any part thereof as a noun or an adjective of any political party entitled to participate in the primary election."

The plaintiff is registered as a Republican and voted in the primary in New Jersey on April 20 in accordance with law RS 9:23-45 of the Revised Statutes which provides "a voter who votes in a primary election of a political party shall be deemed to be a member of that party until two subsequent annual primary elections have elapsed after casting of such party primary vote."

The plaintiff contends that having duly registered as a Republican and being by law required to be a Republican for two years thereafter cannot be denied the right to have the ballot so state the fact.

C. The Judgment or decree dismissing the complaint herein was entered on the 20th day of August, 1948 and an application or petition for appeal is presented to the United States District Court this 20th day of August, 1948.

The nature of the case and the rulings of the Court were such as to bring the case within the jurisdictional provisions relied on for the following reasons:

The plaintiff first learned of the amendments after March 11th and on May 22nd tendered a petition for direct nomina-

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tion for member of Congress for the November election, which would have been timely but for the challenged amendments. The plaintiff made application for temporary injunction on the ground that serious Constitutional questions were raised and that there would not be time for adjudication on the merits and an appeal prior to election and still leave reasonable campaign time. The Court held that to grant a temporary injunction and withhold final hearing until after election would be "a most unreasonable position," . . . "and quite unjustified as a matter of law."

This is squarely in conflict with the purpose of the statute creating a three-judge Court which provides for temporary restraining order, temporary injunction or permanent injunction.

It is squarely contrary to the rule of the Supreme Court in Cumberland Telephone Company v. Public Service Commission, 260 U. S. 212 which states that:

> "notwithstanding a denial of an injunction on its merits, a court may properly find that pending a final determination of the suit on the merits in a court of last resort, a balance of convenience may be best secured by maintaining the status quo. . . ."

The dismissal of the complaint by the District Court brings the case squarely within the three-judge court statute authorizing direct appeal from the denial of both the temporary and permanent injunction.

The grounds upon which it is contended that the question involved are substantial are as follows:

The decision goes to the very essence of democracy, the freedom of choice and election of representatives. The statute has taken away the time in which an independent direct nominating petition may be filed leaving only twenty-one days with an election eight months off, the Court justi-

fying the statute by reaching the conclusion that it is necessary to make the early filing date in order that the defendant's clerk may have six months in order to perform the "complicated administrative functions" of certifying the names of the independent candidates to the County Clerks.

Any limitation on the time within which a petition may be filed prior to election, other than such is as necessary to conduct a well regulated election, is an impairment of the Constitutional right of freedom of election of Congressmen and violates the Fourteenth Amendment, and the requirement now that a petition be filed eight months before election is wholly unreasonable and arbitrary.

The law violates the spirit of the Constitutional Amendment which abolished the "lame duck" Congress because it requires that in New Jersey the selection of Congressmen is foreclosed almost a year before they are to take office.

Though the states may fix the time, place and manner of holding an election for Congressmen, Congress has enacted that all such elections must be by written ballot or voting machine. This implies a free and open election without unreasonable restraints, and the New Jersey Statutes are in conflict therewith.

As further required by Rule 12, the appellant believes that the following matters show that the Court has abused its discretion in denying an interlocutory injunction.

Plaintiff sought the relief on the ground that there was not time for a final adjudication in the Court of last resort before the election and that a temporary injunction should be granted to avoid irreparable injury. The Court answered this as follows:

Judge Biggs:

> "You think this Court would be justified as a Court of the United States in compelling the Secretary to put your name on the ballot by way of a preliminary in-

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junction when we have between now and September 11 or some early date in September, at least, or in August, to decide this case."

Mr. Ring:

"That is my opinion, your Honor."

Judge Biggs:

"I simply can't agree with that, we have a duty to decide every case as expeditiously as we can, and though perhaps you may be entitled to a preliminary injunction, certainly that preliminary injunction should last no longer than necessary to dispose of the case on final hearing, and it is inconceivable to me that we should hold this case in the bosom of the Court until your name has been put on the ballot and the election is for all purposes over. That seems to me to be a most unreasonable position, Mr. Ring, and quite unjustified as a matter of law."

The plaintiff relied on the statement of this Court in Mayo v. Lakeland Highlands Can Company, 309, U. S. 310, 316 that the question on an application for temporary injunction

"was not whether the act was constitutional or unconstitutional, but was whether the showing made raised serious questions under the Federal Constitution and the state law, and disclosed that enforcement of the act pending final hearing would inflict irreparable damages upon the complainants."

Plaintiff said:

"I can't say to the Court that I must have a temporary injunction as to the illegality of all the statutes because only one of them keeps me off the ballot."

Judge Biggs:

"If you are going to take the position the only statute with which you are presently concerned is that lim-

iting the filing time, you will have to rest on that so far as a preliminary injunction is concerned."

Plaintiff's contention was and still is that on an application for temporary injunction showing a substantial question is a matter of pleading and not proof.

The District Court's position was that plaintiff must prove the whole complaint on the preliminary injunction or abandon it.

Plaintiff contended then as now that the substantial question may be shown by the whole complaint while temporary relief is only required and applied for with respect to a part of the issues to avoid irreparable injury.

As a result of the District Court's rulings, above quoted, the plaintiff abandoned all other issues, and proceeded as on final hearing, for which the plaintiff was not wholly prepared, rather than proceed for temporary injunction with the result that if granted plaintiff would have to conduct a final hearing in September and run the risk of having any temporary relief vacated a few days before election, without time for appeal, and after spending substantial time and sums in reliance on such temporary relief.

The latter choice would have been unreasonable and impossible because it would have required plaintiff to spend all summer conducting a vigorous campaign and preparing an important law suit for a trial which would have required sixteen or eighteen hours a day and would have impaired the plaintiff's health. It would require plaintiff to spend several thousand dollars for a campaign not knowing whether his name would be on or off the ballot.

CARL E. RING,
Appellant, Pro se.

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APPENDIX "A"

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF NEW JERSEY

Civil No. 11, 338

CARL E. RING

v.

LLOYD B. MARSH, Secretary of State of the State of New Jersey

Before BIGGS, *Circuit Judge,* and FORMAN and MADDEN, *District Judges.*

By (Biggs), *Circuit Judge.*

The plaintiff, Carl E. Ring, filed his complaint, setting up all necessary jurisdictional allegations as to his right to qualify as a candidate for representative in Congress from the Ninth Congressional District of New Jersey, and asserting that he had prepared and attempted to have filed on May 22, 1948 with the defendant, the Honorable Lloyd B. Marsh, Secretary of State of the State of New Jersey, a direct nominating'"[1] petition requesting that his name and his designation of party or principle as a candidate for representative be printed on the ballot to be used at the general election to be held in New Jersey on November 2, 1948. See Revised Statutes of New Jersey, §§ 19:13-3 to 9. The complaint alleges also that the defendant by his agents refused to accept the petition for filing on the ground that the time for filing such petitions had expired on March 11, 1948 under the law of New Jersey, specifically pursuant to R.S. § 19:13-9, as amended by Chapter 2 of the Laws of 1948. See New Jersey Session Law Service, 1948, No. 1,

[1] R.S. Section 19:13-1 provides that candidates shall be nominated at the primary for the general election or "directly by petition." Ring's petition falls within the second category. See also note 9, *infra.*

The reference "R.S." throughout this opinion in every instance is to the Revised Statutes of New Jersey.

172nd Legislature, at p. 64. The amendment fixed the final day for filing nominating petitions for the general election as forty days prior to the primary day.[2] The statute last cited must be read in conjunction with R.S. § 19:2-1,[3] as amended also by Chapter 2 of the Laws of 1948, which provides that primary elections for delegates and alternates to the national conventions and for the general election shall be held on the third Tuesday in April in each year. If the statutes as amended be valid and constitutional it would follow that Ring's petition should have been proffered to the Secretary of State no later than forty days prior to April 20, 1948, or, on or before March 11, 1948.

The plaintiff *inter alia* has prayed for a preliminary and final injunction to restrain the Secretary of State of New Jersey and his agents from proceeding under the amended sections of the Revised Statutes of New Jersey hereinbefore set forth and for a mandatory injunction to compel the Secretary of State to accept the plaintiff's petition and to put the plaintiff's name on the ballot to be employed at the forthcoming general election. The plaintiff moved for the convening of a three-judge court pursuant to Section 266 of the Judicial Code as amended, 28 U.S.C.A. §380. Deeming the questions presented to be of sufficient consequence to require adjudication, Judge Forman called Judge Madden and the present writer to his assistance. At the hearing of the motion for a preliminary injunction the parties elected to go to final hearing on the merits, the defendant in effect joining issue on the well pleaded allegations of the complaint. Testimony was taken on all material issues. The plaintiff, properly we think, has elected

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[2] R. S. § 19:13-9, as amended, provides:

"All such petitions and acceptances thereof shall be filed with the officer or officers to whom they are addressed at least forty days previous to the day of the holding of the primary election and for the general election in this Title provided. . . ."

[3] R.S. § 19:2-1, as amended, provides:

"Primary elections for delegates and alternates to national conventions of political parties and for the general election shall be held in each year on the third Tuesday in April, between the hours of seven ante meridian and eight post meridian, eastern standard time. . . ."

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to stand on no issues save those relating to the validity of the election laws set out in the foregoing paragraph. These, indeed, frame the only substantial question presented for our determination.

Ring's contentions respecting the New Jersey election law, as amended by the 172nd Legislature, may be summed up, fairly we think, as follows. Prior to the amendments the applicable sections of the Revised Statutes of New Jersey provided that the primary election for delegates and alternates to national conventions and for the general election should be held in each year on the first Tuesday in June,[4] and that the petitions of those who desired to be candidates for office should be filed" . . . at least five days previous to the day of the holding of the primary election for the general election . . .".[5] In short, if the election law of New Jersey had not been changed by the amendments,[6] the plaintiff would have been entitled to file his petition on or before May 26, 1948 and his proffer of his petition to the Secretary of State would have been within the permissible period by at least four days. He contends that the shortened period denies him equal protection of the laws, that the amended statutes impair his right to be, and to be voted on as, a candidate for Congress and that the amended statutes are unreasonable, arbitrary, oppressive, unnecessary and discriminating and constitute violations of Section 1 of Article 1 and of, *sic*, Section 4 of Article 4 of the Constitution of the United States, and of the provisions of the Fourteenth Amendment.

The following appears from the evidence offered on be-

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[4] R.S. § 19:2-1, prior to amendment, read as follows:

"Primary elections for delegates and alternates to national conventions of political parties and for the general election shall be held in each year on the first Tuesday in June, between the hours of seven ante meridian and eight post meridian, eastern standard time. . . ."

[5] R.S. § 19:13-9, prior to amendment read as follows:

"All such petitions and acceptances thereof shall be filed with the office or officers to whom they are addressed at least five days previous to the day of the holding of the primary election for the general election. . . ."

[6] Approved and effective February 18, 1948.

half of the plaintiff and of the defendant and no serious dispute as to any question of fact has arisen. For the last "sixteen or twenty" years the plaintiff, Ring, has given some thought to running for Congress in the Ninth Congressional District of New Jersey where he lives and has his present business.[7] He decided that he would run for Congress "a day or two before the primary", that is to say on or about April 18 or 19, 1948. Ring learned of the pertinent amendments to the election laws of New Jersey, according to his best recollection, on or about May 5 or 6, 1948. He was aware of the new primary election date of April 20 for he voted at the primary at a polling place in Rutherford in the Ninth District. The petition which he attempted to file with the Secretary of State was verified May 21, 1948 and it took him about one week to procure one hundred fifty signatures thereto.[8] The foregoing statements are based on the plaintiff's own testimony.

Kerr, Chief Clerk to the Secretary of State and the person directly charged with the immediate responsibility of handling election matters in the Secretary's office, testified that he himself had suggested the pertinent amendments to the election laws enacted by the 172nd Legislature; that the reason for the amendments was to eliminate ". . . so many different filing dates under our election law . . . [for] one date would save confusion in getting out the certifications . . .",[9] and to give an earlier date for the

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[7] The plaintiff is a member of the Bar of New York but ceased to practice law at or about the time the United States entered World War II when he began to conduct a manufacturing business.

[8] The applicable statute, R.S. § 19:13-5, requires only one hundred signatures but the plaintiff to be on the safe side, lest some of the signatures should be contested as to authenticity, procured one hundred fifty.

[9] The cogency of Mr. Kerr's statement in this connection appears on observing that R.S. § 19:23-14.1 of the Election Laws of New Jersey as it existed in 1947, was repealed by the 172nd Legislature. R.S. § 19:23-14.1 required nominating petitions for party candidates to be filed on or before the seventy-fifth day prior to the first Tuesday in June while direct nominating petitions, pursuant to the provisions of R.S. § 19:13-9, did not have to be filed until five days previous to the day of the holding of the primary election. It follows therefore that under the law as it existed prior to the 1948 amendments a candidate could attempt to procure the

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primary to elect delegates to the national conventions.[10] It appears also from the evidence that twenty-five independent candidates for representative in Congress filed with the Secretary of State petitions within the time set by the statutes as amended and that five independent candidates for United States senator also filed by the prescribed time. It should be pointed out that one of the independent candidates for representative in Congress resides in the plaintiff's home district; viz. the Ninth. It further appears that only one petition other than that of the plaintiff, was attempted to be filed after March 11, 1948.

Under the law of New Jersey the Secretary of State is not required to certify the candidates to the respective election districts or counties until fifty-one days prior to the general election, to be held this year on November 2, 1948; in other words, the Secretary of State is not required to perform any official function respecting the certifying of names of candidates until September 13, 1948.[11] See R. S.

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nomination of his party and if he failed could still get his name on the ballot by filing an independent nominating petition. This situation was changed by the 1948 amendments which put the party candidate and the independent candidate on an equal footing in respect to filing dates. See R.S. § 19:23-14, setting the time for the filing of the petitions of party candidates, and R.S. § 19:13-9, setting the time for the filing of independent nominating petitions. The time prescribed by both sections under the law as amended is forty days prior to the holding of the primary election.

[10] When asked by the court what was the purpose of having the primary on April 20, Mr. Kerr replied, "To elect delegates to the national conventions." We think it probable that another reason for the change in the required filing time was to meet the first of the national conventions which was called to order on June 21, 1948.

[11] The fifty-first day falls on Sunday, September 12, 1948. R.S. § 19:11-1 provides that if the day for performing an official duty falls on a Sunday, the performance of the duty shall be effected on the next following business day. In calculating the period of fifty-one days we assume that the day November 2, 1948 should not be counted. The fifty-first day therefore falls on Sunday, September 12, hence the Secretary's duty must be performed on or before Monday, September 13.

We note that the Chronological Index for filing petitions appended to the pamphlet copy of Title 19, Elections, compiled and printed under the direction of the Secretary of State, sets September 12, 1948 as the date on which the Secretary of State is to certify the names to the county clerks

§ 15:13-22, as amended. It appears also that since 1930 until the enactment of the 1948 amendments it had been the law of New Jersey that petitions for independent candidates who desire to have their names voted on at a general election must be filed ". . . at least five days previous to the day of the holding of the primary election for the general election". See P. L. 1930, Ch. 187, Par. 118, p. 723, as amended by P. L. 1935, Ch. 253, Sec. 1, p. 777.

To sum up the pertinent facts set out in the preceding paragraphs of this opinion and on which the plaintiff in fact must rely, we state that following the 1948 amendments to the election law the plaintiff had only twenty-two days in which to file his petition with the Secretary of State, whereas if the law had remained unchanged and Ring had made up his mind to run for Congress on February 18 instead of April 18 or 19 (as he actually did) he would have had a total period of three months and eight days in which to file it. The time for filing under the law as it existed prior to the amendments would have expired on May 26, 1948 instead of on March 11, 1948.

The question which we must resolve is whether Ring was denied any right guaranteed to him by the Constitution of the United States by the amendments which we have referred to in this opinion. We think that the answer must be in the negative. It is well established that ". . . the times . . . and manner of holding elections for Federal senators and representatives shall be prescribed in each State by its legislature, . . ." See Blackman *v.* Stone, 7 Cir., 101 F. 2d 500, 503. Cf. Winston *v.* Moore, 244 Pa. 447, 91 A. 520. The right of the State of New Jersey to fix the time and the manner for holding elections for representatives in Congress has not been altered or limited in any respect here pertinent by Congress. This does not mean that the legislature of New Jersey or of any State may act arbitrarily, unreasonably or capriciously in respect to such matters.

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pursuant to R.S. § 19:13-22. We conclude that the critical date, however, is the day stated in the body of this opinion because the statute provides that the Secretary of State shall certify the names "not later than fifty-one days before any election. . . ."

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We cannot say that the changes effected in the election laws by the New Jersey Legislature in 1948 are unreasonable, capricious or arbitrary insofar as they are applicable to or affect the plaintiff or any other candidate for public office. That the amended provisions are not unreasonable in their application to the plaintiff is demonstrated by the fact that within one week he secured the necessary signatures on his nominating petition and that thirty other candidates for offices in Congress filed their direct nominating petitions with the Secretary of State of New Jersey within the time prescribed by the amended law. It was reasonable, despite the plaintiff's contentions to the contrary, for the Legislature to allow the Secretary of State of New Jersey until September 13 to certify the names of candidates. The Secretary actually may not require such an extended period of time, from March 11 to September 13 or about six months, to prepare and make the certifications but we may not say that the allowance of the stated period to this official to perform complicated administrative functions is either arbitrary or capricious or is not within the discretion of the Legislature. Moreover, the date for filing independent nominating petitions had been geared to the primary election date for about eighteen years and has remained so geared under the 1948 amendments. The substantial reason for changing the date for filing independent nominating petitions, effected by the 1948 amendments, was, as was stated by the Chief Clerk to the Secretary of State, so that independent candidates should have the same filing date as party candidates. This was a reasonable purpose and end.

The plaintiff was well aware of the date of the primary election for, as we have said, he participated in it as a voter. The plaintiff is an intelligent man, a member of the bar of New York, who for some years was a practicing attorney. He knew, or at least he should have known, that the system provided by the law of New Jersey for direct nominating petitions for years, as has been stated, had been geared to the primary election date. He was also chargeable with knowledge of the 1948 amendments enacted by the Legislature of New Jersey and the affective date thereof. The statutes which he has attacked are constitutional and their application is reasonable and puts upon the plaintiff no

greater burden than that put upon any other candidate for office.

The other points raised by the parties do not require discussion.

The complaint will be dismissed for want of equity Findings of fact and conclusions of law are filed with this opinion in accordance with the provisions of Rule 52 (a), 28 U.S.C.A. foll. § 723c.

A decree may be submitted.

APPENDIX "B"

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY

Civil No. 11,338

CARL E. RING

v.

LLOYD B. MARSH, Secretary of State of the State of New Jersey

Findings of Fact

1. The defendant, Lloyd B. Marsh, is Secretary of State of the State of New Jersey.

2. On February 18, 1948, Title 19, Chapter 13, Section 9 of the Election Laws of New Jersey was amended to provide that direct nominating petitions for public office, including representatives in Congress, to be voted in the November 2, 1948 General Election, should be filed with the Secretary of State forty days before the primary election.

3. On February 18, 1948, Title 19, Chapter 2, Section 1, of the Election Laws of New Jersey was amended to provide that the primary election should be held on the third Tuesday in April.

4. The plaintiff, Carl E. Ring, is a natural born citizen of the United States, of more than twenty-five years of age

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at the times referred to in the complaint and in the testimony. He resides in the Borough of Rutherford in the Ninth Congressional District of New Jersey and has resided there for more than five years and voted in the primary election which was held on April 20, 1948.

5. On May 22, 1948 the plaintiff attempted to have filed a nominating petition with the Secretary of State so that he might be a candidate for representative in Congress from the Ninth Congressional District of New Jersey to be voted for at the general election to be held on November 2, 1948. The petition was in proper form and on its face, was executed in accordance with the provisions of the Election Laws of New Jersey with one possible exception. There is a question of whether the plaintiff was entitled to make use of the word "Republican" in designating the party of which he is the candidate. It is unnecessary to pass on this question in order to dispose of the case.

6. The plaintiff by stipulation has abandoned every material issue raised in his complaint with the exception of those relating to the provisions of the Election Laws of New Jersey, Title 19, Chapter 13, Sections 1 and 9, which became effective February 18, 1948 and which fixed the last day for filing nominating petitions for the general election as forty days before the primary for the general election the date of the primary election on the third Tuesday in April.

7. There were five petitions filed with the Secretary of State by independent candidates for the office of United States senator from New Jersey. All of these petitions were filed on or before March 11, 1948.

8. There were twenty-five petitions filed with the Secretary of State by independent candidates for the office of representative in Congress. All of these petitions were filed on or before March 11, 1948. Among them was one filed by an independent candidate for representative in Congress from the Ninth Congressional District, the district in which the plaintiff resides. Only one petition for nomination to an elective office, other than that of Ring, was attempted to be filed after March 11, 1948.

9. The plaintiff decided that he would run as an independent candidate for representative in Congress on or about April 18 or 19, 1948. He learned of the pertinent amendments to the Election Laws of New Jersey on or about May 5 or 6, 1948.

10. The plaintiff secured 150 signatures to his independent nominating petition within a week after he decided to run for Congress.

11. Under the law of New Jersey the Secretary of State is not required to certify the names of the candidates for office to the respective election districts or counties until fifty-one days prior to the General Election. In the year 1948 no certification is required by the Secretary of State until September 13, 1948.

12. Under the Election Laws of New Jersey, as amended, the plaintiff had at least twenty-two days to prepare and file his nominating petition. If the law had remained unamended the plaintiff would have had three months and eight days in which to prepare and file his petition.

Conclusions of Law

1. The amendments to the Election Laws of New Jersey, passed by the 172nd Legislature and complained of by the plaintiff, do not deprive him of any right guaranteed by the Constitution of the United States.

2. The application of the laws as amended to the petitioner are not unreasonable, capricious or arbitrary.

3. Revised Statutes of New Jersey, Sections 19:13-9 and 19:2-1 as amended are valid and binding on the plaintiff and the defendant.

4. The complaint is without equity and must be dismissed.

(John Biggs, Jr.), U. S. Circuit Judge; (Phillip Forman), U. S. District Judge; (Thomas M. Madden), U. S. District Judge.

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APPENDIX "C"

DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY

Civil Action No. 11338

CARL E. RING, Plaintiff,

v.

LLOYD B. MARSH, Secretary of State of the State of New Jersey, Defendant

Order for Judgment

The above-entitled cause coming on regularly to be heard on the 17th day of June, 1948, and the Court having heard the evidence therein and the arguments of counsel, and briefs having been submitted, and the Court having heretofore made and filed an opinion herein, it is hereby ordered, adjudged and decreed as follows:

1. That the complaint in all respects be hereby dismissed,

2. That based on the merits as to said Defendant, Lloyd B. Marsh, Secretary of State of the State of New Jersey, the evidence does not disclose an equitable cause of action, and judgment with costs therefor is hereby entered in favor of the said Defendant, Lloyd B. Marsh, Secretary of State of the State of New Jersey, against the Plaintiff, Carl E. Ring.

Dated at Trenton, New Jersey this 20th day of August, A. D. 1948.

(Forman), Judge.

Enter.

I hereby consent to the form of the within order.

Carl E. Ring.

Judgment entered this 23rd day of August, 1948. William H. Tallyn, Clerk. By Samuel R. Brettell, Deputy.

No. 319. RING *v.* MARSH, SECRETARY OF STATE OF NEW JERSEY. Appeal from the United States District Court for the District of New Jersey. *Per Curiam:* The appeal is dismissed for want of a substantial federal question. Reported below: 78 F. Supp. 914.